BORNEO POST SDN BHD & ANOR *a*

v.

SARAWAK PRESS SDN BHD

HIGH COURT SABAH & SARAWAK, KUCHING *b*
IAN HC CHIN J
[SUIT NO: KG 22-07-95-I]
1 DECEMBER 1998

TORT: *Defamation - Libel - Law of libel in regard incorporated company - Plaintiff an incorporated company owning newspaper - Article in rival newspaper accuses plaintiff's newspaper of inaccurate reporting - Allegation directed to newspaper published by plaintiff and not to plaintiff - Whether plaintiff defamed in the way of its business - When action for libel lies in respect of incorporated company* *c*

TORT: *Defamation - Libel and slander - Words disparaging goods - Whether defamatory - Statements disparaging newspaper - Whether company owning newspaper should bring claim for libel or slander - Whether statements cast imputation upon personal character of those responsible for conduct of paper - Whether statements cast imputation on company publishing newspaper - What must be shown for action for slander of goods - Defamation Act 1957, s. 6* *d* *e*

The plaintiff company, the owner and publisher of a newspaper, brought an action for damages for libel. It was asserted that the defendant, the owner of a rival English daily, published in its newspaper an article which contained unfounded and untrue allegations against the newspaper belonging to the plaintiff. The article in question reported that certain news reports published in the plaintiff's daily were "grossly misleading", "highly inaccurate and irresponsible" and "baseless and groundless". The plaintiff averred that this publication was false and malicious thereby injuring their credit, character and reputation. It was further averred that the publication of the said article was calculated to increase the circulation of the defendant's daily. *f* *g*

Held:

[1] Although the law of libel is the same for all plaintiffs, its applicability is different when it comes to a plaintiff which is a company. *h*

[2] An action for libel will lie at the suit of an incorporated trading company in respect of a libel calculated to injure its reputation in the way of its business without proof of special damage but not in respect of anything reflecting upon them personally. *i*

[3] The article in question was not directed at the news reporting of the plaintiff's daily in general but only to specific news reports published in the plaintiff's daily.

[4] The allegations in the article in question were directed at the newspaper published by the plaintiff and not to the plaintiff itself. The specific mention of the news reports in the newspaper published by the plaintiff prevents any enlargement of the implication to reflect on the plaintiff. There is no mention of the plaintiff's name in the news reports neither was an innuendo meaning pleaded. Therefore it has not be shown that the article in question reflects on the plaintiff in the way of their business.

[5] Words which merely disparage a man's goods or property but in no way reflect on his personal or trading character are not defamatory and cannot be a ground for an action for libel.

[6] Statements disparaging a newspaper may involve an imputation upon the personal character of those who own or conduct and manage it such as the editor or reporter. However, since the plaintiff is a company which has no personal character, there is no question of any imputation upon the personal character of the plaintiff.

[7] If the complaint is that the newspaper owned or published by the plaintiff had been seriously injured, then the action of the plaintiff should be for the slander of goods under s. 6 of the Defamation Act 1957, that is, that their newspaper had been slandered by the allegation that it made grossly misleading, highly inaccurate and baseless and groundless news reports.

Per curiam:

[1] For an action for the slander of goods under s. 6 of the Defamation Act 1957 to succeed, the plaintiff must allege and prove (i) that a statement was made concerning his goods; (ii) that it was false; (iii) that it was published maliciously i.e. with a dishonest or other improper motive and (iv) (save in cases falling within the provision of s. 6(1) of the Defamation Act 1957) that he has suffered special damage thereby.

[Application dismissed.]

Cases referred to:

Alberta Publishing Co v. Munns 41 DLR [1918] 422 ***(refd)***
D & L Caterers Ltd & Anor v. D'Ajou [1945] 1 KB 364 ***(refd)***
Evans v. Harlow [1844] 5 QB 624 ***(cit)***
Griffiths v. Benn [1911] 27 TLR 316 ***(cit)***
Latimer v. Western Morning News Co [1871] 25 LT 44 ***(cit)***
Sentinel Review v. Robinson [1927] 61 Ontario R 509 ***(refd)***
South Hetton Coal Co v. North-Eastern News Association Ltd [1894] 1 QB 133 ***(refd)***

Legislation referred to:
Defamation Act 1957, s. 6(1)

Other source referred to:
Libel and Slander, Gatley, 8th edn, paras 31, 73, 317

For the plaintiff - Richard Poh; M/s Chan, Kho, Poh & Co
For the defendant - JB Singh; M/s JB Singh & Co

Reported by S Dharmendran

JUDGMENT

Ian HC Chin J:

Introduction

This is an action for damages for libel taken out on 3 February 1995 by Borneo Post Sdn. Bhd. ("1st plaintiff") and Harian Borneo Sdn. Bhd. ("2nd plaintiff") against Sarawak Press Sdn. Bhd. ("defendant"). At the outset of the hearing on 2 November 1998 the 2nd plaintiff's claim was at their instance struck off with cost to the defendant. This leaves only the claim of the 1st plaintiff. The trial was conducted on 2, 3, 4, 5, 6, 19, 23, 25, 26, 27 & 28 November.

Facts Of Case

The 1st plaintiff is the owner and publisher of an English daily called The Borneo Post while the defendant owns the rival English daily called The Sarawak Tribune. Both dailies circulate mainly in Sarawak. A sister company of the 1st plaintiff published a Malay daily called Utusan Borneo which was at the relevant time printed by the 1st plaintiff and distributed free with The Borneo Post. In my view, for all practical purposes Utusan Borneo was regarded as synonymous with, or as a Malay section of, The Borneo Post because it was given free when one purchased a copy of The Borneo Post. The news report of 12 August issue of The Borneo Post which carried, to use the word of the 1st plaintiff's witness, "a partial rebuttal" and 15 December letter, *infra*, of the 1st plaintiff's advocates which asserted that the 1st plaintiff owned both The Borneo Post and Utusan Borneo further strengthen that view of mine even though they were legally owned by separate entities. Therefore, it is fair to say that a publication in Utusan Borneo could be said to be a publication in The Borneo Post.

On 9 August 1994 Utusan Borneo came out with a Malay news report which was repeated on 10 August 1994 issue, the agreed translation of which reads:

RESIDENTS OF NANGA SEMAH SEEK SYMPATHY FROM THE MINISTER CONCERNED

By: Hamid Mahmud

SIBU: The residents of Nanga Semah constituency sought the sympathy of the Assistant Minister of the State Welfare, Datuk Paduka Hajah Syarifah Mordiah Tuanku Fauzi on the plight of the fire victims from the said area.

The Chairman of the Village Security and Development Committee Nanga Semah (JKKK), Encik Gambang Banta, when interviewed by a reporter of the said area hoped that Datuk Paduka Mordiah would look into their area and take steps to assist the families involved in the fire that occurred a few days ago.

"It would be appropriate for Datuk Paduka Mordiah to see for herself the condition of the Mit and Endok longhouse and the occupants after the fire, in view that the people's elected representative was difficult to be contacted." he said.

He added that presently the fire victims from the said Mit and Endok longhouse had no alternative but to put up at the padi sheds of the villagers of the same area, some putting up with their relatives and constructing temporary small sheds/huts while waiting for assistance from the government and other concerned parties.

He said ever since the fire that burnt the longhouse in the said area, it had been difficult for the people to contact their elected representative who should have taken serious responsibility over this area which came under his jurisdiction, what more to say to search for him.

He clarified that up till now the residents involved had only received assistance in the form of clothing and some food from the teachers of the Bintangor Teachers' Training College, the Red Crescent Society, the Bintangor Welfare Department, RELA (Vigilante Corp), the longhouse chiefs and private individuals.

A resident of Nanga Semah, who was also present, informed that the estimated loss at this stage was RM400,000 and they had been unable to salvage all their properties.

He further informed that had it not been for the kind assistance of Temenggong Sandom Nyuak who had contributed in cash, advisory service, views, it might have been difficult for the fire victims concerned to get supplies and food, etc.

"If we were to wait for the response from the authority concerned the families involved would have starved and forced to squat forever," he said.

He stressed that if the Assistant Minister of Welfare would kindly look into the said longhouse area which was burnt down, as what she normally did whenever any natural disaster struck in any area in regions of this country, she could have alleviated some of the sufferings of the fire victims and the unfortunate families.

Meantime, the Secretary to the PBB Nanga Semah Constituency, Encik Ali Haji Dupap also added that, while they had no intention of putting the blame on anyone regarding this matter the residents of Nanga Semah were not able to accept the reality that at a crucial time like this it had been as though they had been played out.

Meanwhile he hoped that the residents of Nanga Semah area would also be given the attention in their planning and implementation of development projects which are and will be carried out.

"Please give your attention to the Nanga Semah residents and do not make us your tools in any situation if you require our support." he said.

That news report brought about the following statements in the second page of the 11 August issue of The Sarawak Tribune:

PBB sources refute newspaper report
Fire victims have in fact received RM23,000 in aid

KUCHING – News reports claiming that nothing was done to help the fire victims at Nanga Semah are grossly misleading, Parti Pesaka Bumiputra Bersatu (PBB) sources said yesterday.

The reports are highly inaccurate and irresponsible, especially when they are credited to a so-called PBB secretary of Nanga Semah, Bitangor District, who in fact resides and works in Sibu, the sources added.

The reports in the Borneo Post (Sibu edition 9.8.94) and (Kuching edition 10.8.94) by its writer Hamid Mahmud, which appeared to blame the authorities for the absence of a response, are baseless and groundless. Furthermore the statement by a supposed PBB secretary of the Nanga Semah is mischievous as no such person had been appointed to the post.

...

The Borneo Post responded to that article by publishing in their 11 August issue a "partial rebuttal".

On 15 December the advocates for the 1st plaintiff wrote to the defendant to state that (1) the 1st plaintiff were the proprietors of both Borneo Post and Utusan Borneo and (2) the 11 August article contained unfounded and untrue allegations and constituted a very gross and malicious libel on the 1st plaintiff and disparaged Borneo Post in the way of their business. It demanded a

retraction be published, an apology and substantial compensation. None was forthcoming, hence the parties downed their powerful pens and crossed swords in court.

The Issues

The 1st plaintiff complained that those statements in the 11 August issue of the The Sarawak Tribune, in their natural and ordinary meaning meant and were understood to mean (quoting from para. 5 of the statement of claim):

(1) That "Borneo Post" and/or "Utusan Borneo" published grossly misleading news reports;

(2) That "Borneo Post" and/or "Utusan Borneo" were guilty of highly inaccurate and irresponsible news reporting; and

(3) That "Borneo Post" and/or "Utusan Borneo" were guilty of baseless and groundless news reporting.

The 1st plaintiff further claimed (1) the publication was false and malicious, (2) they have "been seriously injured in their credit, character and reputation, and in the way of their business as proprietors, printer and publishers of newspapers and/or as newspapers, and have been brought into public scandal, odium and contempt and (3) the publication was calculated to increase the circulation of The Sarawak Tribune and to make profit.

The defence denied all that and asserted that (1) the words were not capable of being so understood nor to bear those meanings, (2) they were justified, (3) they were fair comment on a matter of public interest and (4) they were qualified privilege.

Given the state of the statement of claim, it is unclear whether the 1st plaintiff is also claiming for the slander of goods. It is also unclear, since it is not stated in the statement of claim, how the statements concerning The Borneo Post or Utusan Borneo can be said to be intended for the 1st plaintiff. I will deal more with those points later after I have considered the circumstances in which the 1st plaintiff, being a company and not an individual, can sue for damages for defamation.

When Can A Company Sue For Defamation?

It is held in *South Hetton Coal Company v. North-Eastern News Association Ltd* [1894] 1 QB 133 that an action for libel will lie at the suit of an incorporated trading company in respect of a libel calculated to injure its reputation in the way of its business without proof of special damage but not in respect of anything reflecting upon them personally. In that case the

defendant's newspaper described the village in the plaintiff's colliery as being in a highly insanitary state, that most of the houses there were unfit for habitation for want of proper and decent conveniences, had inadequate accommodation and insufficient water supply. The plaintiff claimed that the defendant by the libel intended that the plaintiff's property was insanitary, unhealthy and unfit for habitation. The claim further asserted that the libel intended (1) that the plaintiff company was guilty of neglect of its workmen, (2) that it failed in a manner, which was unjustifiable and discreditable, to provide for such workmen fit and proper houses, with fit and proper sanitary conveniences and (3) that the plaintiff company was not such a master as workmen could or should serve. The claim finally asserted that the plaintiff company had been injured in its credit and reputation and had suffered damage. It was held that the plaintiff company could sue and the jury found for the plaintiff and awarded £25 damages.

It was similarly held in *D. & L. Caterers Ltd & Anor. v. D'Ajou* [1945] 1 KB 364 that a company in order to be able to sue must have been "defamed in the way of its business".

Though an attack on a newspaper may tantamount to an attack on those who are responsible for the conduct of the paper, that is not an issue here because the people involved in producing the plaintiffs' newspapers, like the editor or reporter, have not sued.

A company also has a right to sue for slander of goods as provided for in s. 6, Defamation Act 1957 which reads:

> 6 (1) In any action for slander of title, slander of goods or other malicious falsehood, it shall not be necessary to allege or prove special damage:
>
> (a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or
>
> (b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.
>
> (2) Section 3 of this Act shall apply for the purposes of this section as it applies for the purposes of the law of libel and slander.

This is important to bear in mind because words which merely disparage a man's goods or property but in no way reflect on his personal or trading character are not defamatory and cannot be a ground for an action for libel (*Evans v. Harlow* [1844] 5 QB 624; *Griffiths v. Benn* [1911] 27 TLR at p. 316). With those principles in mind, I turn now to consider whether the 11 August statements are defamatory of the 1st plaintiff.

Are The 11 August Statements Defamatory Of The 1st Plaintiff?

There is no controversy concerning the general definition of defamation though various authorities had been cited. I need only reproduce the definition in Gatley on *Libel and Slander*, 8th edn., para. 31, *viz.*:

> The gist of the torts of libel and slander is the publication[1] of matter (usually words) conveying a defamatory imputation.[2] A defamatory[3] imputation is one to a man's discredit,[4] or which tends to lower him in the estimation of others,[5] or to expose him to hatred contempt or ridicule,[6] or to injure his reputation in his office, trade or profession,[7] or to injure his financial credit.[8] To be defamatory an imputation need have no actual effect on a person's reputation; the law looks only to its tendency.[10] A true imputation may still be defamatory, although its truth may be a defence to an action brought on it[11]; conversely untruth alone dos not render an imputation defamatory.[12]

But the application of the law is different when it comes to a plaintiff which is a company such as the 1st plaintiff. This has been very succinctly stated and illustrated in the following passage of Lord Esher M.R., p. 138, in *South Hetton Coal Company v. North-Eastern News Association Ltd, supra, viz*:

> … the law of libel is one and the same as to all plaintiffs; and that in every action of libel, whether the statement complained of is, or is not, a libel, depends on the same question – *viz.*, whether ... what has been published with regard to the plaintiff would tend in the minds of people of ordinary sense to bring the plaintiff into contempt, hatred, or ridicule, or to injure his character. The question is really the same by whomsoever the action is brought – whether by a person, a firm, or a company. But though the law is the same, the application of it is, no doubt, different with regard to different kinds of plaintiffs. There are statements which, with regard to some plaintiffs, would undoubtedly constitute a libel, but which, if published of another kind of plaintiffs, would not have the same effect. For instance, it might be stated of a person that his manners were contrary to all sense of decency or comity, and such that, if the statement were true, they would render him deserving in the minds of persons of ordinary sense of contempt, hatred or ridicule; but, if the same thing were said with regard to a firm, or company, it would be impossible that it should have the same effect, because a firm or company as such cannot have indecent or vulgar manners. Therefore, although the law is the same with regard to libel on a firm or company as with regard to libel on a person, the conditions under which the particular statement can be libellous may not exist with regard to them. There are other statements which would have the same effect, whether they were made with regard to a person, or a firm, or a company; as, for instance, statements with regard to conduct of business. It may be published of a man in business that he conducts his business in a manner which shews him to be a foolish or incapable man of business. That would be a libel on him in the way of his business, as it is called – that is to say, with regard to his conduct of his business. If what is

stated relates to the goods in which he deals, the jury would have to consider whether the statement is such as to import a statement as to his conduct in business. Suppose the plaintiff was a merchant who dealt in wine, and it was stated that wine which he had for sale of a particular vintage was not good wine; that might be so stated as only to import that the wine of the particular year was not good in whosesoever hands it was, but not to imply any reflection on his conduct of his business. In that case the statement would be with regard to his goods only, and there would be no libel, although such a statement, if it were false and were made maliciously, with intention to injure him, and it did injure him, might be made the subject of an action on the case. On the other hand, if the statement were so made as to import that his judgment in the selection of wine was bad, it might import a reflection on his conduct of his business, and shew that, he was an inefficient man of business. If so, it would be a libel. In such a case a jury would have to say which sense the libel really bore; if they thought it related to the goods only, they ought to find that it was not a libel; but, if they thought that it related to the man's conduct of business, they ought to find that it was a libel. With regard to a firm or a company, it is impossible to lay down an exhaustive rule as to what would be a libel on them. But the same rule is applicable to a statement made with regard to them. Statements may be made with regard to their mode of carrying on business, such as to lead people of ordinary sense to the opinion that they conduct their business badly and inefficiently. If so, the law will be the same in their case as in that of an individual, and the statement will be libellous. Then, if the case be one of libel – whether on a person, a firm or a company – the law is that the damages are at large. It is not necessary to prove any particular damage; the jury may give such damages as they think fit, having regard to the conduct of the parties respectively, and all the circumstances of the case.

Another illustration of how a company can be defamed can be found in the judgment of Kay LJ, at p. 145, which reads:

> But where the plaintiffs are two or more persons associated in partnership, the only libel of which they can jointly complain is one which may injure their joint property or their joint trade or business. The same law is applicable to a certain extent to a trading corporation. Its property or its business may be injured by defamatory statements whether written or oral. It has a trading character, the defamation of which will ruin it. If, for example, an individual, a private partnership, or a corporation were carrying on a trading business, and some one wrote and published an untrue statement that they were insolvent, or any other statement which might destroy their credit or paralyse their business, it is obvious that such a statement, if untrue, would be a libel.

As mentioned earlier, a company in order to be able to sue for libel or slander must have been "defamed in the way of its business" (*D. & L. Caterers Ltd & Anor. v. D'Ajou,* per Du Parcq L.J., p. 367). In *D. & L. Caterers Ltd & Anor. v. D'Ajou,* the plaintiffs were respectively a company and its managing

director. A defendant slandered the plaintiffs by telling someone that the plaintiffs were illegally carrying on their restaurant in breach of the relevant orders of the Ministry of Food and were thereby committing criminal offences. The court held that the words were defamatory of both plaintiffs in that the plaintiffs breached rationing orders and the managing director plaintiff bought food in the black market and that the plaintiff company could take out an action for libel.

The case of *Alberta Publishing Co. v. Munns* 41 DLR [1918] 422 is another example of a company suing for defamation. It was held in that case that to charge a newspaper with selling its influence to any political party and therefore binding itself in a manner to deceive the public, by publishing what may be contrary to the honest convictions of its management, tends to bring such newspaper into contempt with the public and result in damage and ought to be actionable. It is to be noted that the "management" of the newspaper is being mentioned and that, in my view, relates to the requirement that the defamation must be in the way of its business.

Therefore, the 1st plaintiff in order to succeed on their claim of libel must show that they have been defamed in the way of their business. It will be recalled that the statements in 11 August news report of The Sarawak Tribune referred specifically to the "news reports" of 9 August and 10 August issues, allegedly, of The Borneo Post and those news reports were alleged as "grossly misleading", "highly inaccurate and irresponsible" and "baseless and groundless". Those news reports, which the 11 August news report attacked, claimed that a PBB secretary of Nanga Semah had said nothing was done to help the fire victims and that there was no response from the authorities to the plight of the people. Pausing here, it is clear to me that those statements were not directed at the news reporting of The Borneo Post in general but only to those specific news reports of 9 August and 10 August. It is also clear to me that there is no mention whatsoever of the name of the 1st plaintiff in those news reports. In fact, para. 5 of the statement of claim alleges that The Borneo Post and/or Utusan Borneo had published grossly misleading news reports, were guilty of inaccurate and irresponsible news reporting and guilty of baseless and groundless news reporting, and, therefore, not the 1st plaintiff. Given the manner in which the statement of claim has been worded, that is that the allegations were directed only at The Borneo Post and/or Utusan Borneo and the failure to state how the 1st plaintiff had been defamed in the way of their business, this action would fail.

It is also pertinent to ask the question of how the 1st plaintiff could be said to have been defamed when there is no mention of the 1st plaintiff in 11 August statements and no innuendo meaning has been asserted in the statement of claim?

Though para. 6 of the statement of claim asserts that the 1st plaintiff had been defamed in the way of their business, *viz*.:

> 6. By reason of the publication of the said words, the Plaintiffs and/or "Borneo Post" and/or "Utusan Borneo" have been seriously injured in their credit, character and reputation, and in the way of their business as proprietors, printer and publishers of newspapers and/or as newspapers, and have been brought into public scandal, odium and contempt.

it does not set out how those words of 11 August could have reflected on the 1st plaintiff's way of business. Mr. Poh in his closing speech also did not say how the 1st plaintiff had been defamed in the way of their business. There is, as mentioned earlier, no innuendo meaning being pleaded so as to allege that those statements could be understood to reflect on the 1st plaintiff in the way of their business.

In so far as mention is made in para. 6 of Borneo Post and Utusan Borneo, those are not legal entities that can institute an action but are merely the respective names of two newspapers that are owned or published by the 1st plaintiff. If the complaint is that those newspapers, which are owned or published by the 1st plaintiff, had been seriously injured, then the action of the 1st plaintiff should be for the slander of goods under s. 6 of the Defamation Act 1957, that is, that their newspapers had been slandered by the allegation that the newspapers made grossly misleading, highly inaccurate and baseless and groundless news reports. For such an action to succeed, the 1st plaintiff must allege and prove (i) that the statement was made and concerning his goods; (ii) that it was false; (iii) that it was published maliciously, i.e. with a dishonest or other improper motive and (iv) (save in cases falling within the provision of s. 6(1) of the Defamation Act 1957) that he has suffered special damage thereby (Gatley on *Libel and Slander,* 8th edn, para. 317). In this regard para. 3 of the statement of claim has alleged that the defendant "falsely and maliciously" published 11 August statements while para. 7 alleges the dishonest or improper motive to be that of making a profit by increasing the circulation of The Sarawak Tribune. However, there is no allegation that those statements were calculated to cause pecuniary damage to the 1st plaintiff which means the 1st plaintiff has to prove special damage. On both matters, the maliciousness and special damage, the 1st plaintiff has failed to prove. Therefore, even if the action includes one for slander of goods, the action, for the reasons stated, would have failed.

An example of how a company can be defamed in the way of its business was provided in *South Hetton Coal Company v. North-Eastern News Association Ltd, supra,* which I will reproduce here:

> Suppose the plaintiff was a merchant who dealt in wine, and it was stated that wine which he had for sale of a particular vintage was not good wine; that might be so stated as only to import that the wine of the particular year was not good in whosesoever hands it was, but not to imply any reflection on his conduct of his business. In that case the statement would be with regard to his goods only, and there would be no libel, although such a statement, if it were false and were made maliciously, with intention to injure him, and it did injure him, might be made the subject of an action on the case. On the other hand, if the statement were so made as to import that his judgment in the selection of wine was bad, it might import a reflection on his conduct of his business, and shew that, he was an inefficient man of business. If so, it would be a libel. In such a case a jury would have to say which sense the libel really bore; if they thought it related to the goods only, they ought to find that it was not a libel; but, if they thought that it related to the man's conduct of business, they ought to find that it was a libel.

Even assuming that it can be argued that somehow the manner in which the 1st plaintiff carried on its business has been pleaded, say, for example, 1st plaintiff ran and published The Borneo Post in an irresponsible manner and so forth, the words complained of, in my view, do not reflect on the manner in which the 1st plaintiff conducted their business of publishing and printing The Borneo Post but can only mean that the particular news reports were grossly misleading, highly inaccurate and irresponsible, baseless and groundless and the allegations were directed at the particular person who produced them namely, the editor who managed The Borneo Post. It cannot be stretched any further as to involve the 1st plaintiff. The specific mention of the news reports in The Borneo Post prevents any enlargement of the implication to reflect on the 1st plaintiff. Examples of where the proprietors of newspapers were ruled to have been defamed are cases where a newspaper was charged with selling its influence to any political party or group and thereby binding itself to deceive the public and its readers by publishing what may be contrary to the honest opinions and convictions of its management (*Alberta Publishing Co. v. Munns* [1918] 13 Alberta R 533) or where it was alleged that the newspaper's policy in advocating some public measure (eg, prohibition) is merely hypocrisy or pretence (*Sentinel Review v. Robinson* [1927] 61 Ontario R 509). Another good illustration is also found in Gatley on *Libel and Slander*, 8th edn, para. 73, where it is stated:

> In *Heriot v. Stuart*[79] Erskine (for the plaintiff) admitted that it was not actionable for one newspaper to describe another as "the most vulgar, ignorant and scurrilous journal ever published in Great Britain," but contended that it was actionable to state: "It is the lowest in circulation, and we submit the fact to the consideration of advertisers," to which, the report says, Lord Kenyon CJ assented.[80]

The present case is none of that.

Statements disparaging a newspaper may involve an imputation upon the personal character of those who own or conduct and manage it. Thus, it was held to be defamatory of the editor of a newspaper to allege that the paper is manipulated by outside influences or that in pursuance of a policy of vilification it has deliberately falsified a report of a speech which was correctly taken down by its reporter (Gatley on *Libel and Slander*, 8th edn., para.73). Another example of an individual owner of a newspaper who successfully sued after being alleged in a defendant's rival newspaper that he had misconducted himself in conducting his business of running a newspaper is *Latimer v. Western Morning News Company* [1871] 25 LT 44. However, no individual is suing in this case and since the 1st plaintiff is a company which has no personal character, therefore, there is no question of any imputation upon the personal character of the 1st plaintiff.

For the reasons stated, it is my view that the statements in the 11 August issue of The Sarawak Tribune were not defamatory of the 1st plaintiff. In view of my decision, it becomes unnecessary to decide on the other issues raised by the defence.

Conclusion

In the premises, I dismiss the 1st plaintiff's claim with costs to the defendant.